This doctrine has been the subject of harsh and able criticism. See Chafee, *Freedom of Speech* (1920) 54 ff; but see *contra,* Corwin, *Freedom of Speech and Press* (1920) 30 YALE LAW JOURNAL, 48. It is further held that the jury was warranted in finding that "unlawful means" were contemplated, and that, while the guilt of the accused could not be declared as a matter of law, the court could well instruct that the advocacy of these doctrines violated the statute. See *Horning v. District of Columbia* (1920) 41 Sup. Ct. 53; (1921) 30 YALE LAW JOURNAL, 421. The instant case illustrates forcibly how strong a hold the policy of strict repression has now obtained. For recent legislative action see NOTES (1920) 20 COL. L. REV. 700. The jury might very well have convicted even though the court had not been so vigorous in its application of the statute. One may share the court's aversion to the defendant's views and yet doubt the corrective effect and the social desirability of the means of repression adopted. If a similar policy is applied to that most difficult of present problems, industrial warfare, i. e. in connection with strikes which are not "mass strikes," the misunderstanding and hatreds likely to result seem distinctly undesirable. See COMMENTS (1920) 30 YALE LAW JOURNAL, 280.

CONTRACTS—ILLEGALITY—ARBITRATION AGREEMENTS.—The plaintiff charterers sued the defendant owners on a charter-party for damage to goods in shipment. The defendants pleaded that the charter-party provided that all disputes arising under it should be referred to arbitration and that a failure to present a claim and appoint an arbitrator within three months from the date of delivery would bar the claim. *Held,* that this clause was void as against public policy. *Dreyfus Co. v. Atlantic Shipping and Trading Co.* (1921, C. A.) 37 T. L. R. 417.

The early courts looked upon arbitration agreements in contracts with disfavor. *Thompson v. Charnock* (1799, K. B.) 8 T. R. 139. But where the contract made arbitration an express condition precedent to a right of action, the English courts have held that such an agreement does not oust the court of its jurisdiction, for no cause of action has arisen until the condition is fulfilled. *Scott v. Avery* (1856) 5 H. L. 811. Thus the distinction came to be drawn between agreements where arbitration was a condition precedent to an enforceable right, and those where it was merely agreed upon as a collateral term of the contract, operating to create a right but not a condition precedent. *Viney v. Bignold* (1887) L. R. 20 Q. B. Div. 172. Some courts construed the doctrine of *Scott v. Avery, supra,* to be applicable only to agreements providing for the arbitration of a dispute as to a particular fact, but after a period of confusion the law is now settled in England that agreements providing for the arbitration of all disputed facts are valid. *Trainor v. Phoenix Fire Ass. Co. Ltd.* (1892, Q. B.) 65 L. T. 825; *Woodall v. Pearl Ass. Co. Ltd.* [1919, C. A.] 1 K. B. 593. However, this confusion left its mark on the courts in this country, with the result that there are a few decisions which hold that a clause making arbitration of any possible dispute a condition precedent is void. *Whitney v. National Masonic Acc. Ass'n.* (1893) 52 Minn. 378, 54 N. W. 184. The weight of authority distinguishes, as in England, conditions precedent and collateral agreements to arbitrate, holding the former a valid bar to an action on the contract and the latter no bar at all. *Graham v. Ins. Co.* (1907) 75 Ohio St. 374, 79 N. E. 930; *Memphis Trust Co. v. Brown-Ketchum Iron Works* (1909, C. C. A. 6th) 166 Fed. 398. To constitute a valid bar the parties must make arbitration a condition precedent either expressly or by necessary implication in fact. *Mecartney v. Guardian Trust Co.* (1918) 274 Mo. 224, 202 S. W. 1131. In England a further recognition of the benefits of settling disputes by arbitration was made by statute giving courts the discretionary power of staying actions on contracts until the *collateral* arbitration agreement has been performed. (1889) 52 & 53 Vict.

c. 49, sec. 4. This statute accords with the decisions of England in whittling down the common-law doctrine. See *In re Berkovitz v. Arbib & Houlberg* (1921) 230 N. Y. 261, 276, 130 N. E. 288, 292. The instant case, in refusing to recognize the validity of an arbitration clause containing a condition subsequent, appears to have set a limit upon this process of qualification.

CONTRACTS—OPTIONS—NOTICE OF ELECTION EXERCISED BY MAILING LETTER.—The plaintiff company had an option to renew a contract for the defendants' services provided it gave the defendants notice of its election. A letter containing the notice was posted in due time, but was never received by the defendants. *Held,* that the option was sufficiently exercised by the mailing of the letter. *Shubert Theatrical Co. v. Rath* (Feb. 16, 1921) U. S. C. C. A. 2d, Oct. Term, 1920, No. 170.

Options have been interpreted both as conditional contracts and continuing offers, though it has been pointed out that there is a distinction between an option and an offer. Langdell, *Equitable Conversion* (1904) 18 HARV. L. REV. 11, 12. Whichever view one adopts, the legal relations created are the same. The optionee has the power to bind the optionor upon the terms and conditions of the contract. Giving of notice may be a condition precedent to the optionee's rights under the contract or it may be a prescribed manner of acceptance. In leasing contracts, with option to renew, notice has generally been held to be a condition precedent to the right to renew, and this condition is fulfilled only upon the receipt of the notice by the lessor. *Bluthenthal v. Atkinson* (1910) 93 Ark. 252, 124 S. W. 510; *Doepfner v. Bowers* (1907, Sup. Ct.) 55 Misc. 561, 106 N. Y. Supp. 932. This rule has been generally followed in other option contracts where notice is expressly required. Mere mailing of the notice is not sufficient, except when the party to be notified conceals himself or in some other way tries to avoid the service of the notice. *Haldane v. United States* (1895, C. C. A. 8th) 69 Fed. 819; *Wheeler v. McStay* (1913) 160 Iowa, 745, 141 N. W. 404, L. R. A. 1915 B, 181, note. So, in insurance contracts requiring notice of cancellation or of assessments, notice means actual notice, and the mere posting of the letter is not sufficient. *Farnum v. Phoenix Ins. Co.* (1890) 83 Calif. 246, 23 Pac. 869; *German Union Fire Ins. Co. v. F. J. Clarke Co.* (1911) 116 Md. 622, 82 Atl. 974, 39 L. R. A. (N. S.) 829, note. This result seems to be the most logical and just, since the parties by agreement have conditioned the acquirement or loss of contract rights upon the giving of the notice. *Hoban v. Hudson* (1915) 129 Minn. 335, 152 N. W. 723, L. R. A. 1916 B, 1114, note. The instant case reaches a conclusion inconsistent with the weight of authority in reasoning that the notice is the acceptance of a continuing offer in the contract. The court overlooks the fact that "notice" is expressly required, and even though the offer was made by post, an inference is not warranted that the defendants consented to be served with the notice by the mere posting of the letter. *Hoban v. Hudson, supra.*

CONTRACTS—LANDLORD AND TENANT—EFFECT OF THE NATIONAL PROHIBITION LAW ON LEASES.—The plaintiff sued for rent under a lease which provided that the demised premises be used for a "café" only. The defendant contended that the Eighteenth Amendment absolved him from liability under the lease. *Held,* that the plaintiff could recover. *Proprietor's Realty Co. v. Wohltmann* (1921, N. J. L.) 112 Atl. 410.

In a similar case, suit was brought to recover rent under a lease stipulating that the demised premises were to be used for the sole purpose of carrying on a "saloon" business. The defendant lessee pleaded the Eighteenth Amendment as a defence. *Held,* that the plaintiff could not recover. *Doherty v. Monroe Eckstein Brewing Co.* (1921, N. Y. Sup. Ct.) N. Y. L. J. April 18, 1921.